IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

OP.No. 3460 of 2001(J)

PETITIONER:

P.JANARDANAN, U.D.CLERK,
FOREST RANGE OFFICE,
TALIPARAMBA, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.BEPIN VIJAYAN

RESPONDENTS:
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1. **THE CHIEF CONSERVATOR OF FORESTS,**
   THIRUVANANTHAPURAM.

2. **THE SENIOR ADMINISTRATIVE OFFICER,**
   OFFICE OF THE CHIEF CONSERVATOR OF FORESTS,
   THIRUVANANTHAPURAM.

3. **THE DIVISIONAL FOREST OFFICER, KANNUR.**

4. **K.V.SASIDHARAN,**
   HEAD ACCOUNTANT, FOREST SCHOOL, ARIPPA.

BY GOVERNMENT PLEADER SRI. K.V. MANOJ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.5760/2001 IN O.P.NO.3460/2001 J

DISMISSED

14/06/2007 **SD/-T.R.RAMACHANDRAN NAIR,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **EXTRACT OF THE SENIORITY LIST PUBLISHED BY THE DEPARTMENT DTD. 28/09/1981.**

EXT.P2: **COPY OF THE ORDER OF PROMOTION DTD. 2/01/1986.**

EXT.P3: **COPY OF THE ORDER OF THE FIRST RESPONDENT DTD. 20/5/1986.**

EXT.P4: **EXTRACT OF THE PROVISIONAL SENIORITY LIST PUBLISHED ON 26/04/1988.**

EXT.P5: **COPY OF THE APPEAL BEFORE THE 1ST RESPONDENT.**

EXT.P6: **EXTRACT OF THE SENIORITY LIST DTD. 16/08/1994.**

EXT.P7: **COPY OF THE APPEAL FILED BY THE PETITIONER WAS NOT DISPOSED OF THE PETITIONER SUBMITTED ANOTHER REPRESENTATION DTD. 21/01/1995.**

EXT.P8: **COPY OF THE PROVISIONAL SENIORITY LIST OF U.D.C.'S AS ON 1/01/1996.**

EXT.P9: **COPY OF THE REPRESENTATION DTD. 15/07/1996 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

EXT.P10: **COPY OF THE ORDER NO.STY 21/96 DTD. 28/04/1998.**

EXT.P11: **COPY OF THE ORDER NO.E3-224/2000 DTD. 24/08/2000 PROMOTING THE 4TH RESPONDENT AND 4 OTHER U.D.S.'S TO THE POST OF HEAD ACCOUNTANTS.**

...2/-

1ST RESPONDENT'S EXHIBITS:

EXT.R1(A): COPY OF THE ORDER NO.E3-5686/85 DTD. 21/12/85.

EXT.R1(B): COPY OF THE PROCEEDINGS NO.27277/87 DTD. 15/08/94.

EXT.R1(C): COPY OF THE PROCEEDINGS NO.STY/24212/01 DTD. 27/06/2001.

/TRUE COPY/

KSS

T.R. Ramachandran Nair, J.

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O.P.NO.3460 of 2001

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Dated this the 14th day of June, 2007

JUDGMENT

The petitioner has filed this original petition while working as a U.D. Clerk in Forest Range Office, Thaliparamba. This original petition is filed mainly claiming various reliefs including a direction to promote him to the post of Head Accountant with effect from the date of promotion of his juniors. He has also sought for appropriate writ for quashing Exts.P6 and P8 proceedings by which the seniority list of U.D. Clerks were published.

2. The case of the petitioner is that he was appointed as a Lower Division Clerk on 29.11.1975 at the Divisional Forest Office. He appeared for the account test on 6.8.1985 which he successfully passed as per the result published on 13.11.1985. Going by the seniority list of L.D. Clerks as on 1.1.1980, the petitioner is serial No.294, whereas one C. Haridasan is serial No.297 and the 4th respondent was placed at serial No.295. Ext.P1 is the extract of the said seniority list. The above mentioned two persons are juniors to the petitioner. But when promotions were made to the post of U.D. Clerk in vacancies which were newly created by a Government Order on 21.12.1985, even though the petitioner was also promoted as per Ext.P2,

in the seniority list he was placed below his juniors. According to the petitioner, he was entitled to be promoted and given seniority based on the date 16.9.1985.

3. A detailed counter affidavit has been filed by respondents 1 to 3 wherein justifications have been pleaded to sustain the assignment of seniority to the petitioner as now done in Exts.P6 and P8. In the Original Petition all the juniors who will be affected by a decision on the questions raised are not impleaded as parties. There is no publication also by impleading anybody in a representative capacity. Hence, the issue raised cannot be thrashed out in these proceedings effectively, as any decision favourable to petitioner will affect the rights of third parties. Since the petitioner claims seniority over his juniors who are now given assignment above in the final seniority list and as the petitioner has already filed a detailed representation, Ext.P9 before the first respondent, it is upto the first respondent to take a decision on Ext.P9 on its merits after hearing the petitioner and any other affected parties. It is also pointed out that in the case of certain other Upper Division Clerks, the second respondent had reassigned ranks to them as per Ext.P10.

4. Without expressing anything on the merits of the matter, I hereby direct the first respondent to hear and dispose of Ext.P9 on its merits with

notice to the petitioner and any other affected parties, within a period of four months from the date of receipt of a copy of this judgment.

The original petition is disposed of in the above terms. No costs.

(T.R. Ramachandran Nair, Judge.)

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T.R. Ramachandran Nair, J.

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O.P.NO.3460 of 2001

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JUDGMENT

14th day of June, 2007